

REMARKS

Applicants appreciate the thorough review of the present application as indicated by the Office Action. The originally filed claims have been replaced above by new Claims 32-72. The replacement claims are submitted to more clearly recite embodiments of the present invention in light of consideration of this application by the undersigned counsel, who has taken over prosecution of this matter. However, the patentability of the newly presented claims will be discussed below with reference to the art cited in the present rejections to expedite the Examiner's consideration of this amendment. Applicants submit that the claims as amended are patentable over the cited art for at least the reasons discussed below.

The Amended Claims:

As claimed in independent Claim 32, a telecommunication system is provided that identifies an incoming call for routing over a packetized protocol network or a standard telephone network. The identified call is routed over the standard telephone network without conversion when the call is not identified for packetized routing. Independent Claims 47, 58 and 63 include corresponding recitations. Independent Claims 47 and 58, as well as dependent Claims 33 and 64 further include recitations related converting calls to a packetized form when the calls are identified for routing over a packet based network. These claims are fully supported by the application as filed. For example, as shown in Figure 2 of the present application, calls from the telephone 201 may be routed over the internet 260 after being converted to an internet protocol by the VoIP platform 240. Specification, Paragraph 16. In contrast, calls routed over the PSTN 280 are not provided to the VoIP platform 240 for conversion.

Newly added independent Claim 69 and the claims that depend therefrom are directed to a telephone device that may be used for routing of calls over a circuit switched network or a Voice over Internet Protocol (VoIP) network, which may be used with the systems or methods of the other claims. These claims are fully supported by the application as filed. For example, support is found in the specification at paragraphs 4, 8 and 17.

The Anticipation Rejections:

Claims 1-31 stand rejected under 35 U.S.C. § 102(e) as being anticipated by United States Patent No. 6,614,781 to Elliot *et al.* ("Elliot"). Office Action, p. 2. Under 35 U.S.C. § 102, "a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." M.P.E.P. § 2131 (quoting *Verdegaal Bros. v. Union Oil Co.*, 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987)). "The fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic. To establish inherency, the extrinsic evidence 'must make clear that the missing descriptive matter is necessarily present in the thing described in the reference. Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient.'" M.P.E.P. § 2112 (citations omitted) (emphasis added).

As best as Applicants' representative can determine from a review of the extremely lengthy Elliot reference, Elliot does not appear to describe a telephone routing system where only some of the calls are routed in a packetized format. For example, in describing an example of routing of a call from a carrier facility coupled device to another carrier facility device, Elliot states:

In steps 286 and 288, soft switch 204 communicates with trunking gateway 232 in order to notify trunking gateway 232 **to set up an RTP session (i.e. an RTP over UDP over IP session)** with trunking gateway 234 and to permit call traffic to be passed over data network 112. (emphasis added)

Elliot, Col. 28, lines 48-52. Thus, it follows that the call is transferred over the data network 112 in a packetized format.

Elliot further states, with respect to least cost routing:

Another important function soft switch 204 is communicating with RS 212 to provide network routing information for a customer call. For example, soft switch 204 can query RS 212 to **retrieve the route having the least cost from an off-network calling party 102 (homed to gateway site 108) to an off-network called party 120 (homed to gateway site 110) over data network 112.** Upon finding the least cost route, soft switch 204 allocates ports on TGs 232, 234. As

described in detail below, soft switch 204 can also be used to identify the least cost route termination and allocate gateway ports over AGs 238, 240 between an on-network calling party 122 (homed to gateway site 108) and an on-network called party 124 (homed to gateway site 110). (emphasis added)

Elliot, Col. 30, lines 46-58. In other words, regardless of what least cost routing is determined in Elliot, the call is routed over the packetized data network 112 to transit between the trunking gateways GT providing PSTN to IP conversion. See also, Elliot, Col. 25, lines 22-50.

In light of the excerpts above, Elliot fails to disclose or even suggest routing of some calls without conversion to a packetized protocol as all calls are converted in Elliot, even if they are later converted back to a format for conventional circuit switched routing to an identified destination device. Accordingly, the newly presented independent claims are patentable over Elliot for at least these reasons. The dependent claims are patentable at least based on their dependence on a patentable independent claim. Various of the dependent claims are also patentable. For example, Claims 35 and 48 recite the terminal is a Central Office of a PSTN. Claims 59 and 66 recite that various operations are carried out at a Central Office. These claims are separately patentable at least as Elliot fails to disclose or suggest that identifying and selective routing/conversion operations occur at a Central Office of a PSTN.

By way of further example, Applicants submit that Elliot fails to disclose a feature phone as recited in Claims 46 and 57. Similarly, independent Claim 69 recites a telephone device with a VoIP key, a call initiation circuit for routing a call responsive to the VoIP key and a network interface to both a circuit switched and a VoIP network that is also not disclosed by Elliot. Should the rejection applied to Claims 12-13 and 27 in the Office Action be applied to Claims 46, 57 and 69, Applicants request a clarification of how the Elliot reference is being interpreted and applied to reject these claims.

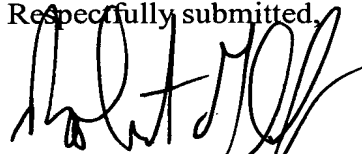
Conclusion

In view of the above, Applicants submit that the pending claims are in condition for

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allowance and respectfully request allowance of the present application. If further informalities are noted, the Examiner is encouraged to contact the undersigned by telephone to expedite allowance of the present application.

Respectfully submitted,

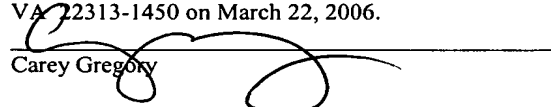


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